M e m o r a n d u m

435.1743

To: M. Lara – San Jose District Office   October 24, 1989

From: John Abbott
        Senior Tax Counsel

Subject: Vehicle window tinting

In your August 30, 1989 memo to me, in which the taxpayer is not named, you write:

"Per your telephone conversation with M--- F--- on August 24, 1989 regarding vehicle window tinting, you said that tinting new windows is taxable while re-tinting windows is exempt. Since taxpayer questions this, could I please get your response in writing? Thank you."

I assume that if the taxpayer is tinting the windows of a new vehicle, he is performing the tinting for a customer who has purchased the vehicle from a new car dealer. Likewise, I assume that if the taxpayer is re-tinting the windows of a used vehicle, he is doing so for the vehicle owner, not for a dealer for resale.

The application of tax to tinting a new vehicle's windows is governed by Regulation 1526. That regulation provides that tax applies to charges for fabricating, processing, etc., tangible property for consumers who furnish the materials used in the fabricating or processing. The tinting operation is a step in the process of producing the finished product and constitutes taxable fabrication labor. See also Regulation 1524(b)(3) for a similar application of tax to charges for painting, polishing, and finishing property in connection with the production of a finished product.

Regualtion 1546 governs the application of tax to retinting the windows of a used vehicle for a consumer. Since retinting restores the used vehicle's windows to their former condition, we view this as a repair operation. If the taxpayer makes a separate charge for the materials

used, or if the retail value of those materials constitutes more than 10 percent of the total charge, the taxpayer is the retailer of the materials; otherwise, he is the consumer of the materials. In either case, the taxpayer should segregate his nontaxable charges for labor in retinting the windows.

JA:jb